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Prevention of armed conflict

The situation in the temporarily occupied territories of Ukraine

Report of the International Court of Justice

Letter dated 26 September 2018 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a note verbale dated 21 September 2018 of the Ministry of Foreign Affairs of Ukraine addressed to the Ministry of Foreign Affairs of the Russian Federation concerning the termination of the Treaty between the Russian Federation and Ukraine on Friendship, Cooperation and Partnership (see annex).

I should be grateful if you would circulate the present letter and its annex as a document of the General Assembly, under agenda items 34, 67 and 76, and of the Security Council.

(*Signed*) Volodymyr **Yelchenko**
Ambassador
Permanent Representative

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Annex to the letter dated 26 September 2018 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in light of the approaching end of the current 10-year period of effectiveness of the Treaty on Friendship, Cooperation and Partnership Between Ukraine and the Russian Federation (the "Treaty") has the honor to state the following.

«The strengthening of friendly relations, good-neighborliness, and mutually beneficial cooperation» between Ukraine and the Russian Federation - such purposes of the Treaty are described in its Preamble. As reflected in the first three articles of the Treaty, such friendly relations between the Parties can exist only when each treats the other as «equal and sovereign» (Article 1), respects the other's «territorial integrity» and «inviolability of the borders existing between them» (Article 2), and refrains from use of force, including economic or other means of pressure, and intervention in internal affairs (Article 3). The Treaty further recognizes that friendly relations are based on each Party's adherence to «good-faith performance of international obligations undertaken, as well as other universally recognized norms of international law» (Article 3).

These foundational principles — of sovereign equality, territorial integrity, political and economic independence, and respect for international law — were incorporated into the Treaty to provide a basis for cooperation between Ukraine and the Russian Federation in various areas, including:

- Security: Under Article 4 and Articles 6 through 9, the Parties committed to cooperate on security and disarmament matters. In particular, they agreed specifically not to participate in hostile acts against each other, and not to allow their territories to be used to the detriment of the security of the other Party (Article 6). Further, under Article 33 of the Treaty, the Parties committed themselves to «combat ... terrorism in all its forms and manifestations»;

- Economic, Social and Cultural Rights: Under Articles 10 through 12, each Party guarantees economic, social and cultural rights to the citizens of the other Party. The Parties agreed, that they would guarantee the citizens of the other Party «rights and freedoms on the same basis and to the same extent as it does its own citizens» (Article 10). They committed also to protect the rights of national minorities, including «the right of individuals who belong to national minorities to fully and effectively exercise their human rights and fundamental freedoms without any discrimination and with full equality under the law» (Article 12);

- Trade and Economy: Under Articles 13 through 16, the Parties agreed to cooperate with one another to grow bilateral trade and their respective economies. In particular, the Parties agreed to «ensure favorable conditions for direct trade relations» (Article 14) and «ensure the mutual protection of their investments» (Article 15);

- Transportation and Energy: Under Articles 17, 20, 22 and 29 of the Treaty, the Parties agreed to cooperate in developing and maintaining transportation and energy infrastructure, including «devoting particular attention to the development of cooperation in ensuring the functioning of national fuel-and-energy complexes» (Article 20). They agreed also to guarantee «freedom of transit of persons, freight, and vehicles» (Article 17) and, in this regard, to «develop maritime shipping and use sea lanes, seaports and maritime facilities» in the Black Sea and Sea of Azov (Article 29);

- Natural Resources of the Black Sea and Sea of Azov: The Parties committed to working together to utilize «the recreational potential and natural resources of the Black Sea and Sea of Azov» (Article 29);
- Environment: Under Articles 25 and 29 of the Treaty, the Parties agreed to cooperate in the areas of environmental protection and improvement, as well as other related areas. In particular, the Parties agreed to «further develop comprehensive cooperation in saving and preserving the natural environment of the Azov-Black Sea Basin» (Article 29).

The Russian Federation has ignored the fundamental principles of the Treaty, including threatening and then brazenly violating the territorial integrity of Ukraine, committing armed aggression against Ukraine and applying military and economic pressure to interfere in internal affairs of Ukraine, thus violating both the principle of sovereign equality and the rights of Ukrainian citizens.

In such circumstances and in the absence of good faith towards peaceful settlement of disputes concerning Russia's numerous and significant breaches of the Treaty, the extension of the Treaty for the next decade (2019-2029) is fundamentally impossible.

The Russian Federation, despite all efforts of Ukraine and the world community, still ignores appeals to stop its internationally unlawful acts, which violate all fundamental provisions of the Treaty, including but not limited to Articles 1, 2, 3, 4, 6, 13, 17.

The Russian Federation refused to use the instruments of peaceful settlement of disputes, as provided by Article 7 of the Treaty and as required by Article 33 of the UN Charter (Note of MFA of Ukraine from 28 February 2014 №2774/2дснг), despite the fact that Ukraine through diplomatic channels (Note of MFA of Ukraine from 27 February 2014 №610/22-110-599) sent to the Russian Federation proposals to resort to them at the beginning of the unlawful use of force and the military aggression in the Spring of 2014.

The Ministry of Foreign Affairs of Ukraine emphasizes, in accordance with Article 70 of the Vienna Convention on the Law of Treaties, the termination of the Treaty does not affect the rights and obligations of the Russian Federation and Ukraine created under the Treaty prior to its termination.

Ukraine and the Russian Federation retain all their rights and obligations under the Treaty, created during its period of validity from 1 April 1999 through 31 March 2019. Ukraine continues to demand that the Russian Federation rectify its violations of the Treaty, respect the territorial integrity and sovereignty of Ukraine, stop violations of the rights of Ukrainian citizens, as well as by provide full compensation for the damage caused by its violation of the Treaty.

Ukraine reaffirms its call on the Russian Federation to submit these and other fundamental outstanding disputes to the International Court of Justice.

The Ministry of Foreign Affairs of Ukraine also emphasizes that the termination of the Treaty takes place without prejudice to the rights and obligations of the Parties under other effective bilateral treaties between Ukraine and the Russian Federation, as well as multilateral agreements to which Ukraine and the Russian Federation are Parties, and other norms and principles of international.

Ukraine confirms its obligations under such treaties, norms and principles, and demands that the Russian Federation faithfully execute its obligations under them.

The termination of the Treaty is without prejudice to the existing judicial and other processes for the peaceful settlement of disputes between Ukraine and the Russian Federation.

Taking into account all of the above and in accordance with Article 40 of the Treaty, the Ukrainian Side declares its wish to terminate the Treaty on Friendship, Cooperation and Partnership Between Ukraine and the Russian Federation from 01 April 2019.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its consideration.

Kyiv, «21» September 2018